

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DEREK TOMELLO,)	Case No. 2:22-cv-01587
)	
Plaintiff,)	The Honorable Algenon L. Marbley
)	
v.)	<u>DEFENDANT’S MOTION TO FILE</u>
)	<u>DOCUMENT UNDER SEAL</u>
SYNEOS HEALTH COMMUNICATIONS,)	
INC.,)	
)	
Defendant.)	

Pursuant to L.R. 5.2, Defendant Syneos Health Communications, Inc. (“Syneos” or “Defendant”) respectfully requests leave to file, under seal, an exhibit to its forthcoming Motion to Dismiss the Complaint, for the following reasons:

1. The Complaint in this action alleges that Defendant interfered with Plaintiff’s FMLA protected rights and/or retaliated against Plaintiff by terminating his employment for requesting information regarding FMLA.
2. An employee must qualify as an “eligible employee” under the FMLA before he or she can enforce the rights provided by the statute. *See Edgar v. JAC Prods.*, 443 F.3d 501, 507 (6th Cir.2006). An eligible employee, as defined by the FMLA, is “an employee who has been employed (i) for at least 12 months by the employer with respect to whom leave is requested ... and (ii) for at least 1,250 hours of service with such employer during the previous 12-month period.” 29 U.S.C. § 2611(2)(A).
3. Plaintiff alleges that he was employed by Syneos and its predecessor in interest from June 2018 through May 12, 2021. (Compl., ¶ 9.) Plaintiff puts the relationship between Syneos and Lupin at issue, including the details of an alleged acquisition.

4. Defendant plans to attach the Work Order to its upcoming Motion to Dismiss, insofar as it is referenced and necessarily incorporated into the Complaint, but was not attached.
5. The Work Order contains details regarding policy and procedure that are confidential and proprietary to the Company.
6. The substance of the Work Order is essential to the Court's review of Defendant's forthcoming Motion to Dismiss.

Respectfully submitted,

/s/ Alexandria A. Gardella

Rebecca J. Bennett (0069566)

Alexandria A. Gardella (0100000)

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Key Tower

127 Public Square, Suite 4100

Cleveland, OH 44114

216-241-6100

216-357-4733 (FAX)

Email: rebecca.bennett@ogletree.com

alexandria.gardella@ogletree.com

*Attorneys for Defendant Syneos Health
Communications, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2022 a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system, including the following:

Christopher J. Lalak
NILGES DRAHER LLC
1360 East Ninth Street Suite 808
Cleveland, Ohio 44114
clalak@ohlaborlaw.com

Counsel for Plaintiff

/s/ Alexandria A. Gardella
*One of the Attorneys for Defendant Syneos Health
Communications, Inc.*